

Meeting with SD ALJ Staff

Re:

SHD Internal Assessment and Strategic

Planning Process:

December 14, 2012, 10:00AM

I. Pre-Hearing Topic, Issues and Recommendations:

1. Issue: No comments.

II. Hearing Topic, Issues and Recommendations:

1. Issue: Burden of Proof: A ruling by the ALJ must be discretionary and done after all the evidence has been presented in the hearing.
2. Issue: IHSS Program Support-Support person is retiring so there may be some resource issues with policy interpretations.
3. Issue: Low Audio problems with computers: This can be eliminated by turning off the speaker on the laptop.
4. Issue: WD/CWD taken by the county on the day of hearing when the claimant comes into reception. The ALJs believe that the county and claimant should appear before the ALJ to discuss the arrangement. This will enable the judge to see if the agreement was negotiated fairly without undue influence.

III. Post-Hearing Topic, Issues and Recommendations:

1. Issue: Rehearings:
  - a) Questions were asked about the criteria used for rehearing request reviews and guidelines used to determine whether to grant or deny a request and how the rehearing should be conducted if granted.
  - b) Examples were: When is a rehearing ordered on the record? Should a rehearing be granted when the error appears to be harmless (de minimis)? What constitutes harmless error?
  - c) Should the rehearing analysis prepared by the reviewer be made available to both parties prior to the rehearing?
2. Issue: Should there be post hearing review of all decisions before they are released?
  - a) There was a split of thinking about reviewing decisions. One thought was that if there are problems with some decisions, that is a training-performance issue. ALJs are expected to issue quality decisions and the only review of journey ALJ decisions should be limited to Proposed Decisions involving policy questions. The other thought was that there is a need for quality control which could be by judge of the day, or duty judge, peer review or a review by the Specialist.

#### IV. Other Topic, Issues and Recommendations:

1. Issue: Is there a need for SHD to do a better job of recognizing staff achievement?
  - a) Recognition of individual ALJ achievement in the absence of published standards could result in resentment. Team achievements should also be recognized within standards.
2. Issue: Claimant Services:
  - a) Interpreter services and calendaring need to be localized.
  - b) There should be three call centers established: SD, LA and Sac as hubs.
3. Issue: ALJ Training:
  - a) Introductory training for ALJs should include a mock hearing component.
  - b) There needs to be more and better training on the use of technology and software.
  - c) Training is needed to improve the interpersonal hearing skills of new judges-as recommended by county staff.
  - d) New ALJs need better training as to their role in the State hearing process-as recommended by counties. Senior judges would like some perspective on their role in gathering evidence. Is their role to be actively engaged in the hearing to gather all relevant evidence or does the ALJ simply rely only on what is offered? (This is referenced commonly as the octopus vs the sponge role of the ALJ). (Also, ALJs are trained on the informality of the hearing process-Is there a Social Worker model or are ALJs to remain neutral-ALJs requested clarification).
  - e) Tele-Interpreters need training on the complexities and nuances of IHSS cases.
4. Issue: Should there be deep class for ALJ IIs? (In addition to Supervisor and Specialist classifications?)
  - a) For example, anyone with 5 years of experience as an ALJ I would be eligible in the absence of performance problems.
5. Issue: Should there be a central system for ALJs to ask questions when preparing decisions? Or, should the SHD develop a Corp of ALJ II Specialists with each person being the program specialty expert in a specified area for training and consultation support?
  - a) Having the regional specialists specialize in a particular policy subject and be a resource in that subject for the entire division is a very good idea. This would have the benefit of insuring that the specialist is being used for more than just hearings. The specialist would be able to carry on a regular relationship with the applicable program specialist and quickly develop an expertise in the assigned subject area. This would be a terrific resource and time-saver for the line Administrative Law Judge.
  - b) Except for succession planning, ALJs can also consult with RA Judges.
6. Issue: There needs to be better lines of communication with Program, Legal and DHCS.
  - a) ALJs believe we do more to maintain meetings with counties.

7. Issue: Should there be a mechanism for ALJs to report county program administration problems so they can be dealt with by CDSS Programs?
  - a) ALJ believe the SHD should implement a process to facilitate ALJs ability to provide feedback on county problems they have identified for CDSS Program attention. They concur that SHD has the unique opportunity to see how the programs are administered by counties and SHD should fulfill its responsibility by reporting apparent program administration errors.
8. Issue: Should the SHD do an ALJ survey?
  - a) The SHD should expect a negative reaction.
  - b) There was a split as to reaction. Some saw it as a benefit and some felt it might be tied to individual performance.
  - c) It could be a tool used to gage customer satisfaction.
  - d) SHD should ask for any surveys used by UIAB, OAH, PUC, SS.
  - e) SHD will give the ALJs an opportunity to review and comment on any draft survey proposed by the SHD before its use.
  - f) Will the survey process and results be subject to the Public Records Act?
  - g) A bubble format was suggested.